

§ 15.04

[69 FR 76397, Dec. 21, 2004, as amended at 71 FR 37817, July 3, 2006]

§ 15.04 [Reserved]

§ 15.05 Designation of agent for foreign persons.

(a) For purposes of this section, the term “futures contract” means any contract for the purchase or sale of any commodity for future delivery, or a contract identified under section 36.3(b)(1)(i) as traded in reliance on the exemption in section 2(h)(3) of the Act, traded or executed on or subject to the rules of any designated contract market or registered derivatives transaction execution facility, or for the purposes of paragraph (i) of this section, a reporting market (including all agreements, contracts and transactions that are treated by a clearing organization as fungible with such contracts); the term “option contract” means any contract for the purchase or sale of a commodity option, or as applicable, any other instrument subject to the Act pursuant to section 5a(g) of the Act, traded or executed on or subject to the rules of any designated contract market or registered derivatives transaction execution facility, or for the purposes of paragraph (i) of this section, a reporting market (including all agreements, contracts and transactions that are treated by a clearing organization as fungible with such contracts); the term “customer” means any person for whose benefit a foreign broker makes or causes to be made any futures contract or option contract; and the term “communication” means any summons, complaint, order, subpoena, special call, request for information, or notice, as well as any other written document or correspondence.

(b) Any futures commission merchant who makes or causes to be made any futures contract or option contract for the account of any foreign broker or foreign trader, and any introducing broker who introduces such an account to a futures commission merchant, shall thereupon be deemed to be the agent of the foreign broker or the foreign trader for purposes of accepting delivery and service of any communication issued by or on behalf of the Commission to the foreign broker or the foreign trader with respect to any

17 CFR Ch. I (4–1–10 Edition)

futures or option contracts which are or have been maintained in such accounts carried by the futures commission merchant. In the case of a futures commission merchant who makes or causes to be made any futures or option contract for the account of a foreign broker, the futures commission merchant and the introducing broker, if any, shall also be the agent of the customers of the foreign broker (including any customer who is also a foreign broker and its customers) who have positions in the foreign broker’s futures or option contract account carried by the futures commission merchant for purposes of accepting delivery and service of any communication issued by or on behalf of the Commission to the customer with respect to any futures or option contracts which are or have been maintained in such accounts carried by the futures commission merchant. Service or delivery of any communication issued by or on behalf of the Commission to a futures commission merchant or to an introducing broker pursuant to such agency shall constitute valid and effective service or delivery upon the foreign broker, a customer of the foreign broker or the foreign trader. A futures commission merchant or an introducing broker who has been served with, or to whom there has been delivered, a communication issued by or on behalf of the Commission to a foreign broker, a customer of the foreign broker or the foreign trader shall transmit the communication promptly and in a manner which is reasonable under the circumstances, or in a manner specified by the Commission in the communication, to the foreign broker, a customer of the foreign broker or the foreign trader.

(c) It shall be unlawful for any futures commission merchant and for any introducing broker to open or cause to be opened a futures or options contract account for, or to effect or cause to be effected transactions in futures contracts or option contracts for an existing account of, a foreign broker or foreign trader unless the futures commission merchant or introducing broker informs the foreign broker or